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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,203	03/27/2001	Masumi Yoshino	205114US2	7892

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EXAMINER

BLAIR, DOUGLAS B

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/817,203

Applicant(s)

YOSHINO ET AL.

Examiner

Douglas B. Blair

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-5, 9-26 and 30-38.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached response to argument.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.



ANDREW CALDWELL  
SUPERVISOR PATENT EXAMINER

### **Advisory Action**

As a preliminary matter, the applicant has requested that the Information Disclosure Statement filed on September 28, 2005 be considered by the Examiner. A review of the prosecution history shows that this information disclosure statement was considered and initialed on 10/31/2005 and mailed on 11/7/2005. A copy of the 1449 form was faxed to Mr. Andrew Harry on 11/3/2006 for the applicant's convenience.

None of the applicant's arguments are persuasive. Before addressing the applicant's specific arguments a summary of the claimed invention is necessary. Claim 1 establishes an online support method comprising the steps for providing a two part form and a method for collecting browser information. The applicant did not invent forms, which have been part of HTML since its inception, and the applicant did not invent a method for collecting browsing information because the applicant's specification does not provide any details on how browser information is collected. Specifically, the only mention of collecting browser records in the applicant's specification is in paragraph 53, which merely states that it can be done. The use of such collection techniques must have been obvious at the time of the applicant's invention, otherwise the applicant's specification would fail to comply with 35 USC section 112 1<sup>st</sup> paragraph.

Since the applicant did not invent any of the individual claim elements, the applicant's whole premise about patentability hinges on whether or not it would have been obvious to combine a two-part form and the collection of a browser information. The examiner can see no reason why one of ordinary skill in the art at the time of the

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applicant's invention would not think to combine a two part form and web browsing records to collect troubleshooting information.

Now looking at the applicant's specific arguments, the applicant first argues that Sullivan does not teach transmitting the browsing record information and the information input into the specific form to an online support center. While to applicant acknowledges that Sullivan teaches, "the telemetry data provided by the client side code summarized all the self-help action the user took, including search strings and those actually traversed", the applicant contends that Sullivan fails to teach or suggest that the information input into the self-help form or the browsing records is transmitted to an online support operator (page 4 of After final). With respect to the information input into the form being transmitted, Sullivan clearly shows this in Figure 12 with the exact form information that was entered in Figures 5 and 6 being shown to the operator in the frame at the bottom of the browser. With respect to the browser record, in col. 12, lines 13-27, the operator can "access and review the same self-help pages reviewed by the user during the self-help section" so clearly the operator has received the browsing records of the user.

The applicant further argues that the applicant's claimed invention recites that support information is provided in advance, and the specific form is only filled out and transmitted if the self-help support is not helpful whereas the only time the user fills out the form in Sullivan's method is to obtain a self-help diagnosis. In response to this argument, the concept of providing information in advance and then escalating to online support is not reflected in the claims.

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The applicant then argues that claims 1-5, 9-24, and 30-35 are patentable over Grewal, Meyer and Rangan because there is no motivation to combine such references. In response to this argument, the examiner points out that each of these references are relied upon to show that the applicant's claimed concepts were well known at the time of the applicant's invention. The argument that there is no motivation to combine these references is completely erroneous because it neglects all of the teachings and known techniques available to a web programmer of ordinary skill at the time of the applicant's invention and completely discounts the abilities and intellect of all programmers to combine these related techniques. If the applicant's argument did hold true that there is not motivation to combine well-known web programming techniques, then literally any arbitrary variation on a web page would be patentable.

In summary, the applicant's disclosure features nothing novel but rather combines well-known web programming techniques that were obvious to combine, as explicitly shown by Sullivan. For the numerous reasons pointed out above this combination of elements is not patentable.